

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1110

AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-23-5.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The Indiana recycling promotion and assistance fund is established. The purpose of the fund is to promote and assist recycling throughout Indiana by focusing economic development efforts on businesses and projects involving recycling. The fund shall be administered by the board.

(b) Sources of money for the fund consist of the following:

- (1) Appropriations from the general assembly.
- (2) Repayment proceeds of loans made from the fund.
- (3) Gifts and donations.
- (4) Money from the solid waste management fund.

(c) Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The board may use money in the fund to make loans to assist:

- (1) persons in establishing new recycling businesses;
- (2) in the expansion of existing recycling businesses; and
- (3) manufacturers in retrofitting equipment necessary to reuse or recycle secondary materials.

(e) The board shall establish loan:

- (1) amounts;

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- (2) terms; and
- (3) interest rates.

(f) The board may use money in the fund to make grants for research and development projects involving recycling. The board shall establish amounts for grants.

(g) A person, business, or manufacturer that wants a grant or loan from the fund must file an application with the board.

(h) The board shall establish criteria for awarding grants and loans under this section.

(i) The board may transfer money in the fund to the state solid waste management fund established by IC 13-20-22-2 for use by the department of environmental management to make payments under IC 13-20-17.7-6.

SECTION 2. IC 13-11-2-16.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16.3. (a) "Automotive salvage recycler", for purposes of this chapter, means a business that:**

- (1) acquires damaged, inoperative, discarded, abandoned, or salvage motor vehicles, or their remains, as stock-in-trade;**
- (2) dismantles and processes the vehicles or remains for the reclamation and sale of reusable components and parts; and**
- (3) disposes of recyclable materials to a scrap metal processor or other appropriate facility.**

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 3. IC 13-11-2-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16.5. (a) "Automobile scrapyards", for purposes of this chapter, means a business organized for any of the following purposes:**

- (1) Processing scrap metal.**
- (2) Wrecking automobiles.**
- (3) Operating a junkyard.**

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 4. IC 13-11-2-66.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 66.9. (a) "End of life vehicle", for purposes of IC 13-20-17.7, means a motor vehicle that is:**

- (1) sold; or**
- (2) otherwise conveyed;**

to a motor vehicle recycler for the purpose of recycling.

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(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 5. IC 13-11-2-71, AS AMENDED BY SEA 234-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 71. "Environmental management laws" refers to the following:

- (1) IC 13-12-2 and IC 13-12-3.
- (2) IC 13-13.
- (3) IC 13-14.
- (4) IC 13-15.
- (5) IC 13-16.
- (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
- (7) IC 13-18-12 and IC 13-18-15 through IC 13-18-20.
- (8) IC 13-19-1 and IC 13-19-4.
- (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, **IC 13-20-17.7**, and IC 13-20-19 through IC 13-20-21.
- (10) IC 13-22.
- (11) IC 13-23.
- (12) IC 13-24.
- (13) IC 13-25-1 through IC 13-25-5.
- (14) IC 13-27-8.
- (15) IC 13-30, except IC 13-30-1.

SECTION 6. IC 13-11-2-104.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 104.5. (a) "Hulk crusher"**, for purposes of this chapter, means an enterprise that engages in the business of handling and flattening, compacting, or otherwise demolishing motor vehicles or their remains for economical delivery to a scrap metal processor or other appropriate facility.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 7. IC 13-11-2-128.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 128.8. (a) "Mercury switch"**, for purposes of IC 13-20-17.7, means a convenience light switch that:

- (1) is located in the hood or trunk lid of a motor vehicle; and
- (2) contains mercury.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 8. IC 13-11-2-130.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 130.1. (a) "Motor vehicle"**, for

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purposes of this chapter, means a vehicle that is self-propelled on a highway in Indiana. The term does not include a farm tractor or a motorized bicycle.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 9. IC 13-11-2-130.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 130.2. (a) "Motor vehicle manufacturer", for purposes of this chapter, means a person that is engaged in the business of manufacturing or assembling new motor vehicles for sale to any of the following:**

- (1) Dealers.
- (2) Wholesale dealers.
- (3) Distributors.
- (4) The general public.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 10. IC 13-11-2-130.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 130.3. (a) "Motor vehicle recycler", for purposes of IC 13-20-17.7, means any of the following:**

- (1) An automotive salvage recycler.
- (2) An automobile scrapyard.
- (3) A hulk crusher.
- (4) A scrap metal processor.
- (5) A vehicle disposal facility.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 11. IC 13-11-2-136.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 136.5. (a) "National mercury switch recovery program", for purposes of IC 13-20-17.7, means a national program:**

- (1) that accomplishes, as determined by the commissioner, the goals of IC 13-20-17.7; and
- (2) in which the state participates.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 12. IC 13-11-2-196.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 196.5. (a) "Scrap metal**

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processor", for purposes of this chapter, means a private, commercial, or governmental enterprise:

(1) that has facilities for processing iron, steel, or nonferrous scrap; and

(2) whose principal product is scrap iron, scrap steel, or nonferrous scrap for sale for remelting purposes.

(b) The term does not include a steel mill.

(c) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 13. IC 13-11-2-245.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 245.2. (a) "Vehicle disposal facility", for purposes of this chapter, means a person, firm, limited liability company, corporation, or other legal entity that, in the course of business, engages in the acquisition and dismantling or demolition of motor vehicles, motorcycles, semitrailers, or recreational vehicles or their remains for the benefit of reusable components and parts or recyclable materials.

(b) The term includes the following enterprises:

(1) An automotive salvage recycler.

(2) A hulk crusher.

(c) The term does not include a scrap metal processor.

(d) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 14. IC 13-14-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The officials collecting the following shall remit the money to the treasurer of state:

(1) Money collected under the following:

(A) IC 13-30-4-1.

(B) IC 13-30-4-2.

(C) IC 13-30-5-1.

(2) Fees collected under IC 13-16-1-2 through IC 13-16-1-5.

(b) Except as provided in subsection (c), the treasurer of state shall credit the money to the environmental management special fund.

(c) With respect to the money collected under subsection (a)(1)(A) and (a)(1)(B):

(1) the commissioner may direct the treasurer of state to credit all or a part of the money to the solid waste management fund established by IC 13-20-22-2; and

(2) the treasurer of state shall:

(A) credit money as directed by the commissioner under subdivision (1); and

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(B) credit to the environmental management special fund only money that is not credited under subdivision (1).

SECTION 15. IC 13-20-17.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 17.7. Mercury Switches in End of Life Vehicles

Sec. 1. (a) Except as provided in subsection (b), motor vehicle manufacturers engaged on July 1, 2006, in the business of offering motor vehicles for sale in Indiana shall, individually or collectively:

(1) develop a plan to:

(A) remove;

(B) collect;

(C) recover; and

(D) recycle or dispose of;

mercury switches from end of life vehicles;

(2) submit the plan to the commissioner before October 1, 2006; and

(3) implement the plan as required under section 4(b) of this chapter.

(b) Subsection (a) does not apply to a motor vehicle manufacturer that has never installed mercury switches in the manufacturer's motor vehicles.

Sec. 2. (a) A plan described in section 1 of this chapter must include the following:

(1) An education program concerning the purposes of the mercury switch collection program and how to participate in the program, including the following:

(A) Educational materials about the program.

(B) Information identifying which end of life vehicles might contain mercury switches by make, model, and year of manufacture.

(C) Instructions on safe and environmentally sound methods to remove mercury switches.

(2) The provision of containers for collecting and storing mercury switches.

(3) Procedures for the transportation of mercury switches to recycling, storage, or disposal facilities.

(4) Procedures for the recycling, storage, and disposal of mercury.

(5) Procedures to track the progress of the program, including a description of performance measures to be used and reported to demonstrate that the program is meeting measures of the

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effectiveness of the program, including the following:

(A) The number of mercury switches collected from end of life vehicles.

(B) The amount of mercury collected.

(6) Procedures for implementing the plan.

(b) The department shall:

(1) prepare an annual report that includes the information tracked under subsection (a)(5); and

(2) provide the report to:

(A) the legislative council in an electronic format under IC 5-14-6; and

(B) the environmental quality service council.

Sec. 3. Motor vehicle manufacturers that submit plans, individually or collectively, under this chapter shall pay the following costs incurred for implementing the plans:

(1) Educational materials.

(2) Training.

(3) Packaging for transporting mercury switches to recycling, storage, or disposal facilities.

(4) Shipping of mercury switches to recycling, storage, or disposal facilities.

(5) Recycling, storage, or disposal of mercury switches.

(6) Maintenance of all appropriate systems and procedures to protect the environment from mercury contamination.

Sec. 4. (a) The commissioner shall do the following:

(1) Not more than thirty (30) days after receiving a plan developed by a motor vehicle manufacturer or a group of motor vehicle manufacturers under section 1 of this chapter, issue a public notice of a period of at least thirty (30) days during which the public may submit written comments on the plan to the commissioner.

(2) Not more than one hundred twenty (120) days after receiving a plan, determine whether the entire plan complies with this chapter and:

(A) if the entire plan complies with this chapter, approve the plan in its entirety;

(B) if no part of the plan complies with this chapter, reject the plan in its entirety; or

(C) if only part of the plan complies with this chapter, approve that part and reject the rest of the plan.

(b) If a plan is approved in its entirety under subsection (a)(2)(A), the motor vehicle manufacturers shall begin implementing the plan

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not more than thirty (30) days after the date the plan is approved. If an entire plan is rejected under subsection (a)(2)(B), the commissioner shall inform the motor vehicle manufacturers why the plan was rejected, and the manufacturers shall submit a new plan not more than thirty (30) days after the commissioner informs the manufacturers that the entire plan was rejected. If a plan is approved in part and rejected in part under subsection (a)(2)(C), the manufacturers shall immediately implement the approved part of the plan and submit a revision of the rejected part of the plan not more than thirty (30) days after the commissioner informs the manufacturers of the commissioner's partial approval. The commissioner shall make a determination on a revised plan not more than thirty (30) days after receiving the revised plan.

(c) Not more than two hundred forty (240) days after receiving a plan developed by motor vehicle manufacturers under section 1 of this chapter, the commissioner shall complete, on behalf of the manufacturer, any part of the plan that has not yet been approved.

(d) After a plan has been approved under this section, the commissioner shall:

- (1) review the plan three (3) years after the original date of approval of the plan and every three (3) years thereafter; and
- (2) work with the motor vehicle manufacturers to agree with the manufacturers on appropriate modifications to the plan.

(e) Motor vehicle manufacturers are not required to resubmit a plan modified under subsection (d) to the commissioner for approval.

Sec. 5. (a) Beginning thirty (30) days after the earliest date the commissioner approves a plan under section 4 of this chapter, a motor vehicle recycler is required to remove all mercury switches from each end of life vehicle the motor vehicle recycler receives upon receipt of the vehicle.

(b) After a mercury switch is removed from a vehicle, the mercury switch shall be collected, stored, transported, and otherwise handled in accordance with the plan approved under section 4 of this chapter.

(c) Notwithstanding subsection (a), a motor vehicle recycler may accept an end of life vehicle containing mercury switches that has not been intentionally flattened, crushed, or baled if the motor vehicle recycler assumes responsibility for removing the mercury switches.

(d) A motor vehicle recycler or any other person that removes mercury switches in accordance with this section shall maintain

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records that document the number of:

- (1) end of life vehicles the person processed for recycling;
- (2) end of life vehicles the person processed that contained mercury switches; and
- (3) mercury switches the person collected.

A person that maintains records under this section shall retain the records for at least three (3) years.

(e) A person may not represent that mercury switches have been removed from a motor vehicle being sold or otherwise conveyed for recycling if the person has not removed the mercury switches from the vehicle.

(f) A motor vehicle recycler or other person that receives an intentionally flattened, crushed, or baled end of life vehicle may not be considered to be in violation of this section if a mercury switch is found in the vehicle after the person acquires the vehicle.

Sec. 6. (a) Subject to subsections (b), (c), and (d), a person is entitled to payment from the department for each mercury switch the person removes from an end of life vehicle under section 5(a) of this chapter.

(b) The commissioner shall establish:

(1) the amount of the payment under subsection (a), which must be:

- (A) at least one dollar (\$1); and
- (B) not more than five dollars (\$5);

per mercury switch; and

(2) a procedure for claims for payment under this section.

(c) The commissioner shall determine:

(1) whether to use money in the state solid waste management fund; and

(2) if the commissioner determines under subdivision (1) to use money in that fund, the amount of money from the fund to be used;

to make payments under this section.

(d) The department is required to make payments under this section only to the extent of the amount of money determined by the commissioner under subsection (c)(2).

Sec. 7. The board may adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter.

Sec. 8. (a) This chapter shall be enforced under IC 13-30-3.

(b) A violation of this chapter or a rule adopted under this chapter is subject to the penalties set forth in the following:

- (1) IC 13-30-4.

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(2) IC 13-30-5.

(3) IC 13-30-6.

(4) IC 13-30-8.

Sec. 9. This chapter expires on the earlier of:

(1) the date on which a national mercury switch recovery program takes effect, as determined by the commissioner; or

(2) July 1, 2016.

SECTION 16. IC 13-20-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The state solid waste management fund is established to provide money for the following:

(1) Programs that provide grants and loans that provide education and promote the following:

(A) Recycling and the use of recycled materials.

(B) Waste reduction.

(C) Management of yard waste.

(2) Providing grants to implement household hazardous waste source reduction or recycling projects.

(3) Providing grants for household hazardous waste and conditionally exempting small quantity generator waste collection, recycling, or disposal projects under IC 13-20-20.

(4) Payments by the department under IC 13-20-17.7-6.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The sources of money for the fund are the following:

(1) All fees deposited into the fund under section 12(2) of this chapter.

(2) Accrued interest and other investment earnings of the fund.

(3) Appropriations made by the general assembly.

(4) Gifts and donations from any person to the fund.

(5) Civil penalties imposed under IC 13-30-4 and fines imposed under IC 13-30-6 for violations of IC 13-20-17.7.

(6) Subject to subsection (f), assets assigned and other contributions made by persons.

(7) Transfers from the Indiana recycling promotion and assistance fund under IC 4-23-5.5-14(i).

(8) Money credited to the fund from the environmental management special fund under IC 13-14-12-1(c).

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert

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to the state general fund.

(f) Money in the fund resulting from assets assigned and other contributions made under subsection (c)(6) may be used only by the department of environmental management to make payments under IC 13-20-17.7-6.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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